

EXHIBIT ONE



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
CITY OF NEW YORK,

Plaintiff/Petitioner,

- against -

Index No. 452761/2024

SWING 46,

Defendant/Respondent.  
-----X

**NOTICE OF ELECTRONIC FILING**  
**(Mandatory Case)**  
(Uniform Rule § 202.5-bb)

**You have received this Notice because:**

1) The Plaintiff/Petitioner, whose name is listed above, has filed this case using the New York State Courts E-filing system ("NYSCEF"), and

2) You are a Defendant/Respondent (a party) in this case.

• **If you are represented by an attorney:**

Give this Notice to your attorney. (Attorneys: see "Information for Attorneys" pg. 2).

• **If you are not represented by an attorney:**

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To find legal information to help you represent yourself visit [www.nycourthelp.gov](http://www.nycourthelp.gov)

**Information for Attorneys  
(E-filing is Mandatory for Attorneys)**

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- 1) immediately record his or her representation within the e-filed matter on the NYSCEF site [www.nycourts.gov/efile](http://www.nycourts.gov/efile) ; or
- 2) file the Notice of Opt-Out form with the clerk of the court where this action is pending and serve on all parties. Exemptions from mandatory e-filing are limited to attorneys who certify in good faith that they lack the computer hardware and/or scanner and/or internet connection or that they lack (along with all employees subject to their direction) the knowledge to operate such equipment. [Section 202.5-bb(e)]

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Dated: OCTOBER 11, 2024

Issac Cwibeker

Name

Wilson, Elser, Moskowitz, Edelman & Dicker LLP

Firm Name

1133 Westchester Avenue

White Plains, NY 10604

Address

(914) 872-7384

Phone

Issac.Cwibeker@wilsonelser.com  
E-Mail

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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Index #

Page 2 of 2

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FILED: NEW YORK COUNTY CLERK 10/08/2024 11:40 AM  
NYSCEF DOC. NO. 1

INDEX NO. 452761/2024  
RECEIVED NYSCEF: 10/08/2024

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

CITY OF NEW YORK,

Plaintiff,

v.

SWING 46,

Defendant.

x Index No.

SUMMONS

Date filed:

Plaintiff designates New York  
County as the place of trial.

x

TO THE ABOVE-NAMED DEFENDANT:

**YOU ARE HEREBY SUMMONED** to answer the Complaint in this action and to serve a copy of your answer or, if the complaint is not served with this summons, to serve a notice of appearance, on Plaintiff's attorneys, WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP, 1133 Westchester Avenue, White Plains, New York, 10604, Attn: Issac Cwibeker, within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is Civil Practice Law and Rules §503(a)

Dated: September 23, 2024

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP  
Special Assistant Corporation Counsel of the City of New York  
*Attorneys for the City of New York*  
1133 Westchester Avenue  
White Plains, New York 10604  
Attn: William J. Cortellessa, Esq.  
Attn: Joel D. Vago, Esq.  
Attn: Issac Cwibeker, Esq.  
Tel. No.: 914-872-7384  
Fax No.: 914-323-7001  
File No.: 26500.45491  
E-Mail: [William.Cortellessa@wilsonelser.com](mailto:William.Cortellessa@wilsonelser.com)  
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To: SWING 46  
349 WEST 46 STREET  
NEW YORK, NY 10036

- 7 -



FILED: NEW YORK COUNTY CLERK 10/08/2024 11:40 AM  
NYSCEF DOC. NO. 1

INDEX NO. 452761/2024  
RECEIVED NYSCEF: 10/08/2024

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

CITY OF NEW YORK,

Plaintiff,

VERIFIED COMPLAINT

Index No.

v.

SWING 46,

Defendant.

Plaintiff, City of New York ("City"), by its attorneys, Wilson, Elser, Moskowitz, Edelman & Dicker, LLP, Special Assistant Corporation Counsel for the City of New York, for its complaint against defendant SWING 46, on personal knowledge as to facts relating to the City of New York and on information and belief as to other allegations, respectfully alleges as follows:

1. Plaintiff City of New York was and is a municipal corporation organized and existing pursuant to the laws of the State of New York.
2. The New York City Office of Administrative Trials and Hearings ("OATH") was and is an agency of the City and maintains its principal place of business located at 100 Church Street, New York, New York.
3. Pursuant to New York City Charter section 1049-a and § 6-01 of Title 48 of the Rules of the City of New York ("RCNY"), the Environmental Control Board ("ECB") was and is established within OATH as part of the OATH Hearings Division. ECB maintains its principal office and place of business at 66 John Street, New York, New York 10038.
4. Swing 46 (the "Defendant") was and is a natural person and resident of the State of New York with an address of 349 West 46th Street, New York, NY 10036.



FILED: NEW YORK COUNTY CLERK 10/08/2024 11:40 AM  
 NYSCEF DOC. NO. 1

INDEX NO. 45276172024  
 RECEIVED NYSCEF: 10/08/2024

5. Venue is proper in New York County pursuant to Civil Practice Law & Rules §503(a).

6. A Summons and Commissioner's Order, Summons Number 000289118N, dated 11/10/2022 issued by the New York City Bureau of Environmental Compliance - DEP was served on Defendant in accordance with the rules of that Department and directed Defendant to appear for a hearing before the OATH Hearings Division on 06/27/2023.

7. In accordance with 48 RCNY § 6-17(c)(3), the Environmental Control Board adopted the decision rendered by the OATH Hearings Division on 07/05/2023, imposing a penalty against Defendant in the amount of \$2,275.00.

8. A Summons and Commissioner's Order, Summons Number 000600438L, dated 11/30/2022 issued by the New York City Bureau of Environmental Compliance - DEP was served on Defendant in accordance with the rules of that Department and directed Defendant to appear for a hearing before the OATH Hearings Division on 08/14/2023.

9. In accordance with 48 RCNY § 6-17(c)(3), the Environmental Control Board adopted the decision rendered by the OATH Hearings Division on 08/21/2023, imposing a penalty against Defendant in the amount of \$2,275.00.

10. A Summons and Commissioner's Order, Summons Number 0216401177, dated 09/17/2022 issued by the New York City Miscellaneous Agencies was served on Defendant in accordance with the rules of that Department and directed Defendant to appear for a hearing before the OATH Hearings Division on 09/13/2023.

11. In accordance with 48 RCNY § 6-17(c)(3), the Environmental Control Board adopted the decision rendered by the OATH Hearings Division on 09/20/2023, imposing a penalty against Defendant in the amount of \$1,750.00.



FILED: NEW YORK COUNTY CLERK 10/08/2024 11:40 AM  
NYSCEF DOC. NO. 1

INDEX NO. 452761/2024  
RECEIVED NYSCEF: 10/08/2024

12. A Summons and Commissioner's Order, Summons Number 000600396M, dated 11/25/2022 issued by the New York City Bureau of Environmental Compliance - DEP was served on Defendant in accordance with the rules of that Department and directed Defendant to appear for a hearing before the OATH Hearings Division on 09/13/2023.

13. In accordance with 48 RCNY § 6-17(c)(3), the Environmental Control Board adopted the decision rendered by the OATH Hearings Division on 09/20/2023, imposing a penalty against Defendant in the amount of \$2,275.00.

14. A Summons and Commissioner's Order, Summons Number 000600695M, dated 12/16/2022 issued by the New York City Bureau of Environmental Compliance - DEP was served on Defendant in accordance with the rules of that Department and directed Defendant to appear for a hearing before the OATH Hearings Division on 10/25/2023.

15. In accordance with 48 RCNY § 6-17(c)(3), the Environmental Control Board adopted the decision rendered by the OATH Hearings Division on 11/01/2023, imposing a penalty against Defendant in the amount of \$2,275.00.

16. A Summons and Commissioner's Order, Summons Number 0216427119, dated 02/21/2023 issued by the New York City Miscellaneous Agencies was served on Defendant in accordance with the rules of that Department and directed Defendant to appear for a hearing before the OATH Hearings Division on 11/28/2023.

17. In accordance with 48 RCNY § 6-17(c)(3), the Environmental Control Board adopted the decision rendered by the OATH Hearings Division on 12/05/2023, imposing a penalty against Defendant in the amount of \$5,250.00.

18. A Summons and Commissioner's Order, Summons Number 0216427494, dated 02/23/2023 issued by the New York City Miscellaneous Agencies was served on Defendant in



FILED: NEW YORK COUNTY CLERK 10/08/2024 11:40 AM  
 NYSCEF DOC. NO. 1

INDEX NO. 452761/2024  
 RECEIVED NYSCEF: 10/08/2024

accordance with the rules of that Department and directed Defendant to appear for a hearing before the OATH Hearings Division on 11/28/2023.

19. In accordance with 48 RCNY § 6-17(c)(3), the Environmental Control Board adopted the decision rendered by the OATH Hearings Division on 12/05/2023, imposing a penalty against Defendant in the amount of \$5,250.00.

20. A Summons and Commissioner's Order, Summons Number 0216418108, dated 03/10/2023 issued by the New York City Miscellaneous Agencies was served on Defendant in accordance with the rules of that Department and directed Defendant to appear for a hearing before the OATH Hearings Division on 11/28/2023.

21. In accordance with 48 RCNY § 6-17(c)(3), the Environmental Control Board adopted the decision rendered by the OATH Hearings Division on 12/05/2023, imposing a penalty against Defendant in the amount of \$5,250.00.

22. A Summons and Commissioner's Order, Summons Number 0216418117, dated 03/16/2023 issued by the New York City Miscellaneous Agencies was served on Defendant in accordance with the rules of that Department and directed Defendant to appear for a hearing before the OATH Hearings Division on 11/28/2023.

23. In accordance with 48 RCNY § 6-17(c)(3), the Environmental Control Board adopted the decision rendered by the OATH Hearings Division on 12/05/2023, imposing a penalty against Defendant in the amount of \$5,250.00.

24. A Summons and Commissioner's Order, Summons Number 0216418126, dated 03/22/2023 issued by the New York City Miscellaneous Agencies was served on Defendant in accordance with the rules of that Department and directed Defendant to appear for a hearing before the OATH Hearings Division on 11/28/2023.



FILED: NEW YORK COUNTY CLERK 10/08/2024 11:40 AM  
 NYSCEF DOC. NO. 1

INDEX NO. 452761/2024  
 RECEIVED NYSCEF: 10/08/2024

25. In accordance with 48 RCNY § 6-17(c)(3), the Environmental Control Board adopted the decision rendered by the OATH Hearings Division on 12/05/2023, imposing a penalty against Defendant in the amount of \$5,250.00.

26. A Summons and Commissioner's Order, Summons Number 0216392386, dated 10/11/2022 issued by the New York City Miscellaneous Agencies was served on Defendant in accordance with the rules of that Department and directed Defendant to appear for a hearing before the OATH Hearings Division on 12/11/2023.

27. In accordance with 48 RCNY § 6-17(c)(3), the Environmental Control Board adopted the decision rendered by the OATH Hearings Division on 12/18/2023, imposing a penalty against Defendant in the amount of \$3,500.00.

28. The Defendant failed to appear at the hearings.

29. Pursuant to New York City Charter §1049-a(d)(1)(d), Defendant's failure to appear "shall be deemed, for all purposes, to be an admission of liability and shall be grounds for rendering default decision and order imposing a penalty in the maximum amount prescribed under law for the violation charged."

30. OATH Hearings Division sent Defendant a copy of its decisions by first class mail.

31. No part of the penalty has been paid although due and duly demanded.

32. In accordance with 48 RCNY § 6-19(c), Defendant's time to seek to an administrative appeal of the hearing decision has expired, thereby rendering the 07/05/2023, 08/21/2023, 09/20/2023, 11/01/2023, 12/05/2023, and 12/18/2023 decisions the Environmental Control Board's final determination on the matter. By this action, the City seeks to enforce the penalty, as authorized by New York City Charter § 1049-a(d)(3).



FILED: NEW YORK COUNTY CLERK 10/08/2024 11:40 AM  
NYSCEF DOC. NO. 1

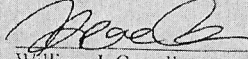
INDEX NO. 452761/2024  
RECEIVED NYSCEF: 10/08/2024

WHEREFORE, the City demands judgment against the Defendant in the amount of the penalty imposed, for the sum of \$40,600.00, costs and disbursements of this action; and such other relief as this Court may deem just and proper.

Dated: September 23, 2024

Wilson, Elser, Moskowitz, Edelman & Dicker LLP  
Special Assistant Corporation Counsel of the  
City of New York  
*Attorneys for the City of New York*  
1133 Westchester Avenue  
White Plains, New York 10604  
Tel. 914-872-7129  
Fax. 914-323-7001  
File Number: 26500.45491

By:



William J. Cortellessa

Joel D. Vago

Issac Cwibeker

As Special Assistant Corporation Counsel



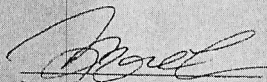
FILED: NEW YORK COUNTY CLERK 10/08/2024 11:40 AM  
NYSCEF DOC. NO. 1

INDEX NO. 452761/2024  
RECEIVED NYSCEF: 10/08/2024

VERIFICATION

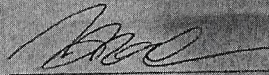
STATE OF NEW YORK )  
SS:  
COUNTY OF WESTCHESTER )

Issac Cwibeker, being duly sworn, deposes and says that he is of counsel to the firm of Wilson, Elser, Moskowitz, Edelman & Dicker LLP, Special Assistant Corporation Counsel to the office of Muriel Goode-Trofant, Acting Corporation Counsel of the City of New York, that the City of New York is the plaintiff in the within action; that the allegations in the Complaint are true to his knowledge, except as to those matters alleged upon information and belief; that the matters alleged therein upon information and belief, he believes to be true; and that the basis of his knowledge is the books and records of the plaintiff and/or statements made to him by officers or employees thereof. This verification is not made by the plaintiff because the plaintiff is a municipal corporation.



Issac Cwibeker  
Special Assistant Corporation Counsel

I affirm on September 23, 2024, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.



Issac Cwibeker  
Special Assistant Corporation Counsel